

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Writ Petition No. 9253 of 2004

The Union of India and ors. petitioners

VS

M.S.Parate respondent

Mr.T.J.Pandian for Petitioners

Mr. S.V.Marne for respondent

CORAM;A.P.SHAH & S.C.DHARMADHIKARI JJ.

Dated 3.12.2004

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Heard parties.

1. Perused the judgment of the Central Administrative Tribunal (C.A.T). The respondent worked as Primary Teacher in Solapur Municipal Corporation from 6.7.1964 to 7.11.1966 before his appointment in the Railways. The respondent had applied to the Railways for appointment as Assistant Primary Teacher on 30.6.1963. At that

time the respondent was unemployed and therefore question of applying through proper channel or seeking permission of previous employer did not arise. The respondent worked as Assistant Primary Teacher with Railways from 19.11.1966 to 30.6.1998 till his retirement on superannuation. By the impugned order the tribunal has directed the petitioners to count previous services in the local body (Solapur Municipal Corporation) from 6.7.1964 to 7.11.1966 towards qualifying service for pensionary benefits and recalculate the respondent's retiral dues and extend to him all consequential benefits.

2. Mr.Pandian, learned counsel for the petitioner has not disputed that by virtue of rule 13 of the C.C.S. Pension Rules, read with letter dated 31.3.1982 from the Department of Administrative Reforms, temporary service rendered by an employee in the local body is liable to be counted for the pensionary benefits. The learned counsel , however, urged that in the present case respondent has failed to prove his service for the entire period from 6.7.1964 to 7.11.1966.The record produced by the Solapur Municipal Corporation shows that the respondent joined the service of the Corporation on 6.7.1964 and he left the services on

7.11.1966. However, the petitioner has not submitted any record for the period from 1.5.1965 to 10.7.1965 and therefore claim is not established. It appears that the record for the said period is destroyed and is not available with the Corporation. Merely because record for the part of the service of the service rendered by the respondent is not available the claim of respondent that he worked with the Corporation during 6.7.1964 to 7.11.1966 cannot be disbelieved especially when record of joining and leaving service is produced on record. Therefore we do not see any reason to interfere with the order passed by the CAT. Petition is accordingly dismissed.

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